1925

O. F. 7a.

Department of LR+S.

OFFICE Board of Rev

STATION Thepark

His **No.** 2030

Dated 18.9.25

To whom sent		Date	Initial.
	Given for copying		
	Copied		
	Examined		
	Signed		
	Given for despatch		
	Despatched	22.9	
	Indexed		
Pages in the file	To be destroyed on		

(SUBJECT.)

Smuts (S Kanara) - Puttur D.M.C. - Gr. 442/25 -
Warg claim - Defence - Sanctioned

* Not to be filled in the case of permanent records.

Ref.on A3-5700-25.

South Kanara Collector's Office,
Mangalore, 30th August 1925.

From

G. W. Wells, Esquire, M.A., I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue,
Madras.

Sir,

Suit - Puttur - District Munsif's Court - O.S.1925-442.

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I request the Board's sanction for the defence of the above suit. It has been filed by one Shankrathota Shankranarnappaya against Government for a declaration that the ----- assignment of S.No.168/1 of Kaimadka village made by the ----- Revenue Department does not affect the Plaintiff and that the whole of S.No.168 appertains to geni warg No.2 called after -- his ancestor Shankranaraina Subbanna and belongs to him.

2. S.No.168 measuring Acres 2.85 is a plot of land classed at Settlement as Government assessed waste. It was applied for on darkhast by one Yedapatya Shankranarnappaya on 28th October 1922. As it adjoins a reserve forest, however. the petitioner restricted his claim to its western portion measuring Acres 1.23 and subdivided as 168/1. During the enquiry, the Plaintiff objected to its assignment to the petitioner on the ground that it was part of his warg land and in support of this contention he relied on the Paimaish chitta of F.1265 and also the special --- Settlement Officer's order dated 21st January 1905. The ------ Paimaish chitta only shews that the Plaintiff was enjoying a --- certain plot appertaining to geni warg No.2, but what that plot is, cannot be made out, as the chitta contains neither -------- description nor boundaries of the plot. The Settlement Officer's order referred the Plaintiff to the Forest Department, as ------ S.No.168 claimed by him on warg right was a pepper Kan. The -- Plaintiff however, never approached the Forest Department. For

these reasons, the Tahsildar held that the warg claim was not proved, and as the kumaki claim of the petitioner was --- superior to that of the Plaintiff, he assigned the plot to the petitioner on 29th May 1925.

3. Against this order, the Plaintiff appealed to the Divisional Officer before whom he produced a certified copy of the Survey and Settlement Register showing that S.No.168 appertained to geni warg No.2. It, however, appeared that at Settlement, the plot was excluded from the rough patta -- served on him, that he objected to this exclusion on the ---- ground of its being his warg, but that as already stated --- above, the Special Settlement Officer ordered that it was a pepper Kan and directed him to apply to the Forest Department, which he never did. Still, the Divisional Officer gave him one month to produce records in support of his warg claim, which he had promised to do, but none was produced. The Divisional Officer accordingly dismissed the appeal.

4. The Plaintiff then sent me a suit notice which was recorded. Hence the suit.

5. The Government Pleader, Mangalore whom I have ----- consulted is of opinion that the Government have a good case. I request therefore, that the Board may be pleased to sanction the defence of the suit and approve the draft written statement prepared by the Vakil doing Government work at Puttur and declared by the Government Pleader, Mangalore to be in order.

6. I propose to file the Plaintiff's objection petition dated 10th October 1904 presented to the Special Settlement Officer to show that the plot had been excluded from the ---- Plaintiff's patta at Settlement and that accordingly the suit is now barred by Limitation under the Madras High Court ----- decision in S.A.No.2048 of 1914.

7. The records noted in the margin are enclosed.

1. Translation of plaint.
2. Draft written statement.
3. Records of D.R.392/32 on the file of the Tahsildar of Uppinangadi.
4. Dis file 118D/Rev.24 dated 6th June 1924 of the Puttur Divisional office.
5. Dis file 12219-24 R. of this office.
6. Settlement objection petition of the Plaintiff dated 10th October 1904.

8. The plaint dated 1st July 1925 was served upon me on 9th July 1925. The suit is posted to 12th October 1925 for hearing.

Your obedient servant,

For Collector.

1.7.25

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In the Court of the District Munsif of Puttur. 21 SEP 1925

O.S.No.442/1925.

Shankrathota Shankranarnappaya son of Ramaya, residing in Kalmadka village, Uppinangadi Taluk.	Plaintiff.
Secretary of State for India - through the Collector of South Kanara.	Defendant.

The address of the Plaintiff for service of process is as stated above.

Under Section 26 of the Cr.P.Code the above named Plaintiff states as follows:-

1. The Plaintiff's land S.No.168 of Kalmadka measuring Acres 2.85 appertains to Geni No.2 called after Shankranarina Subbanna, an ancestor of the Plaintiff.

2. The Revenue Department, nevertheless, assigned on darkhast a portion of it measuring Acres 1.23 to one ------- Yedapathya Shankranaraina through the misrepresentations of his enemy, Minezes, the Revenue Inspector of Panja firka.

3. Though the Plaintiff represented that the said plot appertained to his warg and could not therefore be assigned on darkhast, the Revenue Department have disregarded his --- objections and decided the matter on imperfect enquiry.

4. The Revenue Department have neither the power nor the right to assign on darkhast the said plot of the -------

Plaintiff. The assignment made by the said Revenue Department cannot stand in law and cannot affect the Plaintiff's right.

5. Though the Plaintiff sent a suit notice to the Collector on 11th December 1924, he has been granted no reliefs till now. As it is not possible now to assess the damage, against the Defendant, a separate suit will be filed in respect of it.

6. The cause of action for this suit has arisen --- since the receipt, in about February 1925, of the reply to the suit notice, in Kalmadka village, within the jurisdiction of this court

7. The reliefs in this suit have been valued at Rs.100/- for the purpose of court fees and jurisdiction.

8. The Plaintiff, therefore prays that after giving notice to the Defendant, the Court may

(a) declare that the assignment of the portion measuring Ac.1.23 of 168 denoted as 168/1 of Kalmadka village, appertaining to the Registration Sub District of Sullia, South Kanara District does not prejudicially affect the Plaintiff and that the said S.No.168 appertains to Geni warg No.2 called after the Plaintiff's ancestor, Shankranaraina Subbanna and belongs to the Plaintiff. The value of this relief is Rs. 100- 0-0

and (b) give judgment and decree directing the payment to the Plaintiff by the Defendant the costs of this suit with future interest and granting to the Plaintiff other consequential reliefs not prejudicial to him.

The original plaint has been verified and bears the signatures of the Plaintiff and his Vakil, B. Shivarama Holla.

/True Copy/

Dated 1st July 1925.

Sd/ B.Shivarama Holla,
Vakil for Plaintiff.

/True Translation/

Jathanlis
1.9.25
For Collector.

M.D'S.1/9.

1.9.25

In the Court of the District Munsif of Puttur.

O.S.442/25.

Shankrathota Shankranarnappaya - Plaintiff.

The Secretary of State for India in Council - Defendant.

Written statement of the Defendant under Order 8 Rule 1. The Defendant states as follows:-

1. The Plaintiff's suit is frivolous and unsustainable at law.

2. The Defendant denies that S.No.168 of Kalmadka village, measuring 2 acres 85 cents, appertains to Geni No.2 standing in the name of the Plaintiff's ancestor Shankranarayana Subbanna or that it belongs to Plaintiff on proprietary right.

3. The said land S.No.168 is pure Government waste and has been registered as such in the Adangal during Settlement. Out of this land, a portion subdivided as S.No.168/1 measuring 1 acre 23 cents, was, after due enquiry, assigned by the ------- Tahsildar of Uppinangadi Taluk in D.R.392/1332 to Yedapathya --- Shankranarayana as he was found to have a better claim, under the darkhast rules. The order of assignment was, on appeal, by the Plaintiff confirmed by the Revenue Divisional Officer of Puttur in R.A.73/23. The Defendant denies that there was any collusion between the said Y. Shankranarayana and Minezes, the then Revenue Inspector of Panja Firka, or that the assignment was the result of such collusion.

4. The Plaintiff failed to prove the warg claim though ample opportunity was given to him.

5. As the land S.No.168/1 was pure Government waste the Revenue Authorities were quite competent to grant it on darkhast and the grant being valid, the Plaintiff has no right whatsoever to question such grant.

6. The assignee Y. Shankranarayana has been in possession and enjoyment of the plaint land S.No.168/1. He is therefore a necessary party and the suit brought without impleading him is bad for non-joinder.

7. The Plaintiff's suit for mere declaration without ----

asking for possession is opposed to Section 42. Specific Relief Act and is therefore unsustainable.

8. The cause of action as shown in the plaint is not correct.

9. The Plaintiff's suit is barred by the law of ----- limitation.

10. The Plaintiff is not entitled to the relief claimed or to any relief.

The suit may therefore be dismissed with costs.

Lethuks
1.9.25.
For Collector.

HB
1.9.25

H.D'S.1/9.

Date of hearing 12-10-25

Subject.—

R. F. XXII-A-19.—18,003—12-12-24.

~~FOR MEMBER~~

Varg

Suits (Stamps) Putlur D M & Cl — O.S. 442/25 — ~~Appeal~~

Claim - Defence sanctioned

READ AGAIN B.P No. _____ dated _____ 192

" " " _____ " _____ 192

READ ALSO :—

Register No A 5199/25 From the Collr, No. _____, dated _____ 192

" " " " " " 192

" " " " " " 192

RESOLUTION. (Mis) No 2030, dated 18. 9. 1925.

The Board sanctions the Defence of the suit and approves the draft written statement submitted by the Collector subject to the following modification:

Add the following as paragraph 10 and renumber the remaining paragraphs.

"This Department denies the truth of such of the allegations in the plaint as are not expressly admitted herein and puts the plaintiff to strict proof of the same."

Issue

18/9

To the Collr of Kanara with records sent

one Memorandum & 3 folios

14/9

14/9

15-9